

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q76687
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/633,718	Filed August 5, 2003
	First Named Inventor Eiji TERAUE	
	Art Unit 2625	Examiner Beniyam MENBERU
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>59,043</u></p> <p style="text-align: right;"><u>/Mark E. Wallerson/</u> Signature</p> <p style="text-align: right;"><u>Mark E. Wallerson</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>July 1, 2008</u> Date</p>		

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76687

Eiji TERAUE

Appln. No.: 10/633,718

Group Art Unit: 2625

Confirmation No.: 5695

Examiner: Beniyam MENBERU

Filed: August 5, 2003

For: IMAGE PROCESSING APPARATUS, AND IMAGE PROCESSING PROGRAM
STORAGE MEDIUM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated January 24, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1, 5, 6, 9-14, 16, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte et al. (U.S. Patent No. 7,068,391, hereafter "Dewitte") in view of Patton et al. (U.S. Patent No. 6,304,345, hereafter "Patton"). Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte in view of Patton and further in view of Yamada (JP 04-284579). Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte in view of Patton and further in view of Tojo et al. (U.S. Patent Application Publication No. 2003/0016942, hereafter "Tojo"). Claims 4 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte in view of Patton and further in view of Murakami (U.S. Patent Application No. 2004/0001208). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte in view of Patton and further in view of Metois et al. (U.S. Patent

Application No. 2003/0197878, hereafter “Metois”). Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dewitte in view of Patton and further in view of Tojo and Kiyosu et al. (U.S. Patent Application Publication No. 2001/0052998, hereafter “Kiyosu”). Applicant respectfully traverses the prior art rejections.

Applicant submits that there is no teaching or suggestion in Dewitte of “a proof image reproducing a printed image in which a process color print image constituting of process colors and a spot color print image are superposed upon each other”, as recited in independent claim 1 and analogous independent claim 5. Although the Examiner cites column 7, lines 49-57 and column 8, lines 22-29 of Dewitte as allegedly disclosing this feature of the claims, these cited portions of Dewitte merely disclose that the proofing method operates on an input image 103 that includes components that are color separations which may be in the form of the actual values of inks used for printing or in the form of spot colors. Further, this cited portion of Dewitte discloses that the input image may include one or more multi-component images such as images which have cyan, magenta, yellow and black (CMYK) components, or may include spot colors. Dewitte does not disclose that a process color print image and a spot color print image are superposed upon each other as required by the claims.

The Examiner then cited column 9, lines 63-67 of Dewitte as allegedly disclosing this feature of the claim and asserts:

Examiner disagrees as evident in column 9, lines 63-67 wherein the output proof has process color CMYK plus spot colors green and orange. Thus the output is superposition of six colors including the spot colors and CMYK.²

Applicant respectfully disagrees with the Examiner’s position. Dewitte discloses a process in which an N colorant component screened image is converted to a contone image with the same number,

² Page 2 of the Office Action dated January 24, 2008.

M, of color components as there are proofing color components. In one embodiment, M colors of the proofer are the same number and the same colorants as the N printer colors. In other words, both the printer and the proofer use the same CMYK colorants. Column 9, lines 63-67 of Dewitte merely discloses an embodiment in which M is larger than N.

However, nowhere does this cited portion of Dewitte teach or suggest the feature “a proof image reproducing a printed image in which a process color print image constituting of process colors and a spot color print image are superposed upon each other”, as recited in the claims. Although Dewitte appears to disclose that an input image may be proofed on a six color proofer, this does not suggest that a proof image is reproduced in which a process color print image constituting process colors and a spot color print image are superposed upon each other, as required by the claims.

Further there is no teaching or suggestion in Patton of “an additional image data creating section that creates additional image data for the output device, which is representative of an additional image describing a reproduction property of a spot color in the reproduction system presupposed when the image data conversion section processes printing image data”, as recited in the claims. The Examiner’s apparent reading of the claimed “additional image data” on the informational data 14 of Patton is erroneous, since the informational data 14 of Patton merely contains information that designates that the print can be used for reprinting or displaying the image in its form as originally printed or captured, and information specifying the color and density for regions of the image, which enables a copy algorithm to reproduce the image as originally captured or printed, and Patton does not teach or suggest that the informational data describes a reproduction property of a spot color in the reproduction system, as required by the claims.

The Examiner asserts:

Patton et al '345 discloses that information data contains "colorimetric value" (column 5, lines 21-25). Further Patton et al '345 discloses in column 6, lines 15-33 that the

colorimetric data is used to reproduce the original image which means that the colorimetric data in information data describes the reproduction property of a color. Further in column 6, 36- 41, Patton et al '345 discloses that the color can be of any color which covers spot colors.³

Applicant disagrees with the Examiner's position. Patton discloses in column 5, lines 21-25 that the informational data 14 includes colorimetric data regarding the image. Column 6, lines 15-33 of Patton discloses that the colorimetric properties of a specified area 18 of an image 12 may be identified in informational data 14 or may be pre-stored in a memory. The informational data is manipulated by an algorithm to reconstruct the image as originally captured and/or printed. Column 6, lines 36-41 of Patton merely discloses that the specified area 18 may have a substantially uniform colorimetric value.

Accordingly, Patton discloses that the informational data includes data regarding the image, and not "information representative of an additional image describing a reproduction property of a spot color in the reproduction system presupposed when the image data conversion section processes printing image data", as required by the claims.

Further, Patton appears to have little or no relevance to the claimed invention, since Patton pertains to the production of a copy of a current print which matches the appearance of the original print by reading information related to the original print which is encoded on a hardcopy of the original print. This clearly differs from the claimed invention, which pertains to obtaining a color proof prior to printing, and which obtains the reproduction property of a spot color and the reproduction system for the spot color and creates additional image data representative of the reproduction system for the spot color, and then superimposes this additional data onto the proof image.

Further, there is no teaching or suggestion in Patton of "an image data output section that outputs to the output device the proof image data converted in the image data conversion section and the

³ Page 2 of the Office Action.

additional image data created in the additional image data creating section, so that the output device outputs the proof image and the additional image”, as recited in claims 1, 5, 9, and 10. Patton discloses that when a reprint of an image 12 is needed, the print 10 is passed through a scanner and sent to an output device and printed according to informational data (data which represents the colorimetric value of the image or a specified area of the image as originally captured or produced) (column 5, line 36 to column 6, line 33). Accordingly, the image 12 is simply an image that was previous printed and not a proof as required by the claims.

Accordingly, Applicant respectfully submits that independent claims 1, 5, 9, and 10 should be allowable because the cited references do not teach or suggest all of the features of the claims. Claims 2-4, 6-8, and 11-17 should also be allowable at least by virtue of their dependency on independent claims 1, 5, 9, and 10.

Respectfully submitted,

Mark E. Wallerson

Mark E. Wallerson
Registration No. 59,043

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
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